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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,453	01/15/2004	Junichiro Suzuki	031331	5057

23850 7590 03/13/2006

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,453

Applicant(s)

SUZUKI ET AL.

Examiner

Christopher P. Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1772

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 rejections of claims 1-8 of record in the Office Action mailed November 3, 2005, Page 2 Paragraph 1, have been withdrawn due to Applicant's amendments in the Paper filed February 2, 2006.

REPEATED REJECTIONS

2. The 35 U.S.C. 103 rejections of claims 1-8 over Nishino in view of Nishi are repeated for the reasons set forth in the previous Office Action mailed November 3, 2005, Pages 3-5 Paragraph 2.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 rejections of record have been considered but they are moot since the rejections have been withdrawn.

4. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 1-8 over Nishino in view of Nishi have been fully considered but they were not found persuasive.

Art Unit: 1772

In response to Applicant's argument that Nishi teaches away from the claimed invention because Nishi teaches forming two layer structures without the use of an adhesive since problems there have been problems due to the use of an adhesive in forming multi-layered structures containing a fluororesin. Although a prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; "the nature of the teaching is highly relevant and must be weighed in substance. A known or obvious article does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." See MPEP 2145 XD1. In this same manner, Nishi teaches that a multi-layered structure formed using an adhesive is inferior to a two-layered structure not using an adhesive, however, Nishi teaches that multi-layered structures containing fluororesin are formed using adhesive and that the functional group used in Nishi is added to a fluororesin to improve its adhesion to other non-fluorinated resins, which would include a layer formed of a blend of polyamide and polyester as taught in the claimed invention and Nishino.

In response to Applicant's argument that Nishino does not teach an embodiment in which the innermost layer comprises fluororesin and the adhesive layer between the innermost and the

Art Unit: 1772

low fuel permeability layer comprises a blend of polyamide and polyester resins, Nishino specifically teaches what the adhesive comprises in cases where in the innermost layer is composed of fluorine type resin and the middle layer is composed of a polyalkylene naphthalene resin. In these cases, the adhesive layer comprises a melted mixture of fluorine type resin or rubber and a polyester type resin or elastomer (col.9, 1.27-37). Nishino goes on to teach that in order to obtain a still more uniformly mixed adhesive resin and to increase the adhesive properties thereof, the adhesive layer further comprises a polyamide type elastomer (col.9, 1.37-43). Therefore, the adhesive layer of Nishino comprises polyamide resin, and polyester resin, as well as fluororesin. Thus, since the adhesive layer is defined in Applicant's claims as open to other resins in addition to the two claimed, the adhesive layer of Nishino reads on the adhesive layer of Applicant's claimed invention.

In response to Applicant's argument regarding the combination of Nishino and Nishi, Nishi does not teach away from the combination as shown above, and Nishino teaches an adhesive layer that comprises polyamide resin in combination with the polyester and fluororesins as shown above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the

Art Unit: 1772

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher P Bruenjes

Examiner

Art Unit 1772

CPB

March 9, 2006


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

3/9/06